

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF CONFERESSES - CORPORATION TAX BUREAU

In the Matter of the Applications :

of :

GENERAL OUTDOOR REALTY CORPORATION :

Hearing Case No. 5997
and 6301

for revision or refund of franchise
taxes under Article 9-A of the Tax
Law for the period ended December 31,
1962 and the cessation period ending
October 17, 1963. :

<u>Period Ended</u>	<u>Report Filed</u>	<u>Tax Recomputed</u>	<u>Application Filed</u>
12/31/62	10/17/63	8/13/65	8/16/66
10/17/63	5/1/64	11/19/65	5/1/67

The taxes were recomputed as follows:

12/31/62

Entire Net Income	\$1,976,280.59
Business allocation	08.329909%
New York base	164,622.37
Tax at 5½%	\$ 9,054.23

10/17/63

Business Income	\$280,969.56
Business allocation	<u>11.333691%</u>
Allocated Business Income	\$ 31,844.22
Investment Income	\$41,255.00
Investment allocation	<u>11.4218%</u>
Allocated Investment Income	4,712.06
Total allocated income	36,556.28
Tax at 5½%	\$ 2,010.60

A joint informal hearing with General Outdoor Advertising Co., Inc. was held in our New York City office on June 14, 1967 before William F. Sullivan, Hearing Officer, with the taxpayer being represented by:

Arthur K. Mason, Esq.
Chapman & Mason
1001 Connecticut Avenue
Washington, D.C. 20036

Roy N. Gesme
Former Director and Member
of Executive Committee of
the Taxpayer

Norman M. Steck
Former Treasurer of
the Taxpayer.

The question involved is the elimination of capital gains from entire net income on sale of real property located outside New York State, or discretionary adjustment of the business allocation percentage.

The taxpayer was incorporated under the laws of Nevada on June 25, 1962 and began business in New York on June 28, 1962.

The taxpayer was formed by General Outdoor Advertising Co., Inc. (New Jersey), who transferred some of its real estate to it and in turn leased it back.

Subsequently, the taxpayer began selling the real estate, which resulted in the capital gain in question.

A discretionary adjustment of the business allocation percentage is being given by the Rand-McNally method as suggested by Mr. Doran in the General Outdoor Advertising matter. The corrected taxes are as follows:

12/31/62

Property

Original Total		\$4,122,084.00
Plus excess of selling price over cost basis		<u>1,978,806.32</u>
Adjusted Total		\$6,100,890.32
N.Y.	<u>348,399</u>	-
Adjusted Total	6,100,890	5.710626%

Receipts

Total		\$ 342,166.83
Plus capital gain		<u>1,978,806.32</u>
Adjusted Total		\$2,320,973.15
N.Y.	<u>28,084</u>	-
Adjusted Total	2,320,973	1.210026%
Total Factors (2)		6.920652%
Business Allocation		3.460326%

Entire Net Income	\$1,976,280.59
Allocated Income	68,385.75
Tax at 5½%	3,761.22
Original Tax	9,054.23
Reduction	\$ 5,293.01

10/17/63

Property

Original Total		\$2,990,586.68
Plus excess of selling price over cost basis		<u>195,139.69</u>
Adjusted Total		\$3,185,726.37
N.Y.	<u>338,501</u>	-
Adjusted Total	3,185,726	10.625561%

Receipts

Total		\$ 287,937.86
Plus capital gain		<u>195,139.69</u>
Adjusted Total		\$ 483,077.54
N.Y.	<u>32,677</u>	-
Adjusted Total	483,077	6.764260%
Total Factors (2)		17.389821%
Business Allocation		8.694911%

Entire Net Income	\$322,224.56
Allocated Income	28,017.14
Tax at 5½%	1,540.94
Original Tax	2,010.60
Reduction	\$ 469.66

/s/ W. F. SULLIVAN
Chairman

/s/ D. H. GILHOOLY

/s/ J. J. GENEVICH

WFS:MB
1/25/68

Approved
E. A. DORAN

Approved 1/29/68
A. BRUCE MANLEY